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DRAFT REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-NINTH SESSION

Rapporteur: Mr. Zdzislaw Galicki

CHAPTER VI

STATE RESPONSIBILITY

1. At its 2477th meeting, on 15 May 1997, the Commission established a Working Group on State Responsibility 1/ to address matters dealing with the second reading of the topic.

2. The Working Group held two meetings from 20 May to 30 June. At its 2504th meeting on 3 July, the Commission considered and endorsed the report of the Working Group.

3. Since the topic deals with a number of important and delicate issues and Governments had not yet responded to the request for written comments (which were requested by 1 January 1998), the Working Group decided to limit its discussion to certain procedural and methodological issues viz. (i) the work plan of the topic within the present quinquennium; (ii) identification of any

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1/ Mr. J. Crawford (Chairman), Mr. I. Brownlie, Mr. J. Dugard, Mr. Q. He, Mr. P. Kabatsi, Mr. J. Kateka, Mr. T. Melescanu, Mr. D. Opertti-Badan, Mr. G. Pambou-Tchivounda, Mr. R. Rosenstock, Mr. B.Simma, Mr. C. Yamada and Mr. Z. Galicki (ex officio).

areas where more work was required, e.g. in the light of developments since the provisional adoption of the draft article in question; and (iii) the procedures to be followed for the second reading.

4. On the basis of the recommendation of the Working Group, the Commission decided:

(a) to design its work plan for the quinquennium with a view to allowing the completion of the second reading of the topic of State responsibility by the end of its quinquennium. To this end it agreed to give appropriate priority to this topic during the quinquennium;

(b) taking into account comments by Governments and having regard to the significant links which exist between various key issues to consider in 1999, if possible, the character of the draft articles;

(c) to follow the usual practice of the appointment of a Special Rapporteur to prepare reports for consideration by the Commission, bearing in mind in particular that a significant amount of inter-sessional work will be required;

(d) to proceed to the appointment of a Special Rapporteur for the topic at the present session;

(e) in its consideration of the topic, to follow the usual practice of debates in plenary followed by reference of articles to the Drafting Committee, and to expedite its work on the topic, following its recommendations for its methods of work, 2/ to establish working groups to consider and report on key issues;

(f) that comments by Governments are of particular relevance as regards the treatment of key issues;

(g) that an examination of case law and literature could also serve as a useful guide in determining whether there are any lacunae in the articles, or whether particular articles may require modification in the light of recent developments in international law, and the latter was particularly relevant to the articles of Part One completed in 1980.

2/ See Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 (A/51/10), paras. 203-220.